

Questions and Answers Concerning PIH 2008-41

Capital Fund Program

Question: Will the Department provide the form HUD-50075.1, the Capital Fund Annual Statement/Performance and Evaluation Report in alternative formats, i.e., MS Word and Excel in FFY 2009?

Answer: No, the Department will not provide alternative formats for the form HUD-50075.1, the Capital Fund Annual Statement/Performance and Evaluation Report, in FFY 2009.

Question: If a PHA elects to submit an excel or MS Word version of the form HUD-50075.1, the Capital Fund Annual Statement/Performance and Evaluation Report, which was designed by the PHA or its consultant, is the submission acceptable?

Answer: The Department will not provide alternative formats for the form HUD-50075.1, the Capital Fund Annual Statement/Performance and Evaluation Report, in FFY 2009. Any format not designed by the Department with protected fields is not the OMB approved form. Keep in mind that the forms for the PHA Plan Template including the form HUD-50075.1 went through a rigorous Departmental review, OMB clearance and public review which took over a year. There is not Departmental process to verify the validity of an alternative format developed by a PHA or consultant.

Question: Line 2 of the form-HUD 50075.1, the Capital Fund Annual Statement/Performance and Evaluation Report, states that – “Operations 1406(may not exceed 20% of line 21)” is that statement correct?

Answer: No, the statement on line 2 of the form HUD 50075.1 the Capital Fund Annual Statement/Performance and Evaluation Report that - “Operations 1406(may not exceed 20% of line 21)” is incorrect. Line 2 of the form-HUD 50075.1, should state that - **“Operations 1406(may not exceed 20% of line 20)”**. The Department is aware of this error. However, in order to correct the form the Department will be required to get this technical correction approved through the OMB clearance process.

Question: Item 3 on form-HUD-50077, the PHA Certification of Compliance with PHA Plans and Related Regulations: Board Resolution to Accompany the PHA 5-Year and Annual PHA Plan, states the following:

“The PHA certifies that there has been no change, significant or otherwise, to the Capital Fund Program (and Capital Fund Program/Replacement Housing Factor) Annual Statement(s) since submission of its last approved Annual Plan. The Capital Fund Program Annual Statement/Performance and Evaluation Report must be submitted annually even if there is no change.”

How can a PHA sign the certification since there is always a change in the Capital Fund Program from one year to the next?

Answer: All PHAs that are required to submit an Annual PHA Plan must sign and submit the form HUD-50077 as a part of the Annual PHA Plan at the time prescribed by HUD in 24 CFR Part 903. An Annual PHA Plan will not be considered complete without the submission of this certification. By signing the form the PHA is certifying compliance with numerous Federal and Public Housing requirements.

See paragraph 2 of Notice PIH 2008-41 for further clarification. Under the paragraph entitled Certification of Compliance (form HUD-50077) see paragraph 2 which explicitly states that the form HUD-50077 must be submitted with the Annual PHA Plan. However, HUD recognizes that paragraph 3 of the form HUD 50077 is incorrect and that it should be deleted. It is HUD's intention to revise the form in the near future. In the interim submission of the form HUD-50077 is required for all PHAs that are required to submit an Annual PHA Plan.

Question: If a qualified PHA would like to apply for a CFFP, since they no longer need to submit a PHA plan, what would they be required to submit to the HUD Field Office to obtain approval?

Answer: It is critical to note that while HERA exempts qualified PHAs from submission of an Annual PHA Plan, qualified PHAs are not exempt from the requirement to submit the Five Year PHA Plan. Consequently, any proposed CFFP should be identified and described by the qualified PHAs in their Five Year PHA Plan as required of Capital Funds by 24 CFR Part 903. In addition, the requirement for submission of CFFP Proposals remains for PHAs that intend to undertake a loan providing a security interest in public housing assets and use the Capital Fund to repay that loan.

Demolition/Disposition, Conversion and Homeownership

Question: Since Housing and Economic Recovery Act (HERA) of 2008 exempts qualified PHAs from submission of an Annual PHA Plan, how are demolition/disposition, voluntary conversion and homeownership applications processed and approved by HUD?

Answer: It is critical to note that while HERA exempts qualified PHAs from submission of an Annual PHA Plan, qualified PHAs are not exempt from the requirement to submit the Five Year PHA Plan. Consequently, any proposed demolition or disposition, voluntary conversion or homeownership must be identified and described by the qualified PHAs in their Five Year PHA Plan as required by 24 CFR Part 903.

Additionally, HERA specifies that qualified PHAs continue to have an annual public hearing. It would be appropriate for qualified PHAs to use the public hearings as an opportunity to present any proposed demolition or disposition, voluntary conversion and homeownership.

Furthermore, the regulation explicitly states that the application and approval process for demolition or disposition, conversion or homeownership are separate processes. Therefore, as the regulation states HUD approval of the PHA Plan does not constitute approval of the PHAs proposal for those proposed actions. Therefore, all PHAs, including the PHAs identified as qualified PHAs in HERA 2008, must submit any demolition or disposition, conversion or homeownership applications to HUD's Special Applications Center (SAC) in Chicago for review and approval. For more information on the application process and forms go to the SAC website found at:

http://www.hud.gov/offices/pih/centers/sac/demo_dispo/

Finally, some time in the future the Department will modify 24 CFR Part 903 to clarify that the requirement to submit an Annual PHA Plan applies only to non-qualified PHAs. As well as, the clarification that qualified PHAs are not exempt from submission of the Five Year PHA Plan. In the interim HERA and its provisions that are self implementing supersede 24 CFR Part 903.